

The definitions in clauses (2) and (9)–(17) reflect the adoption of terminology which, though undefined in the source statutes restated in this title, represent the closest practicable approximation of the ways in which the terms defined have been most commonly used. Where established uses conflict, a choice has been made.

In clause (1), the definition of “Territory” in 32:4c is executed throughout this revised title by specific reference, where applicable, to the Territories, Puerto Rico, and the Canal Zone.

In clause (2), a definition of “National Guard” is inserted for clarity.

In clause (3)(A), the words “a land force” are substituted for 32:2. The National Defense Act of 1916, §117 (last 66 words), 39 Stat. 212, is not contained in 32:2. It is also omitted from the revised section as repealed by the act of February 28, 1925, ch. 374, §3, 43 Stat. 1081.

In clauses (3) and (4), the word “Army” is inserted to distinguish the organizations defined from their Air Force counterparts.

In clauses (3) and (5), the words “unless the context or subject matter otherwise requires—” and “as provided in this title”, in 32:4b, are omitted as surplusage.

In clauses (3)(B) and (5)(B), the words “has its officers appointed” are substituted for the word “officered”, in 32:4b.

In clauses (4) and (6), only that much of the description of the composition of the Army National Guard of the United States and the Air National Guard of the United States is used as is necessary to distinguish these reserve components, respectively, from the other reserve components.

In clause (5)(A), the words “an air force” are substituted for the words “for which Federal responsibility has been vested in the Secretary of the Air Force or the Department of the Air Force pursuant to law”, in 10:1835, and for 32:2 (less applicability to Army National Guard), to make the definition of “Air National Guard” parallel with the definition of “Army National Guard”, and to make explicit the intent of Congress in creating the Air National Guard, that the organized militia henceforth should consist of three mutually exhaustive classes comprising the Army, Air, and Naval militia.

In clause (8), words showing how enlisted members became such are inserted to make clear that enlistment is not the only method of becoming a member in an enlisted grade.

#### 1958 ACT

<i>Section of title 32</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
101(2) .....	[No source].	[No source].
101(18) .....	[No source].	[No source].

In clause (2), the term “armed forces” is defined for legislative convenience and is defined the same as that term is defined in section 101(4) of title 10, United States Code.

The definition in clause (18) reflects the adoption of terminology which, though undefined in the source statutes restated in this title, represents the closest practicable approximation of the ways in which the term has been commonly used.

#### AMENDMENTS

1988—Cls. (4), (6). Pub. L. 100-456 struck out “the Canal Zone,” after “Puerto Rico,”.

1984—Cl. (12). Pub. L. 98-525, §414(b)(1)(A), inserted at end “It does not include full-time National Guard duty.”

Cl. (19). Pub. L. 98-525, §414(b)(1)(B), added cl. (19).

1980—Cl. (1). Pub. L. 96-600 inserted reference to Guam.

Cl. (12). Pub. L. 96-513 struck out “duty on the active list,” after “Federal duty as”.

1972—Cl. (1). Pub. L. 92-492 inserted provision including within term “Territory” for purposes of this title and other laws relating to the militia, the National

Guard, the Army National Guard of the United States, and the Air National Guard of the United States, the Virgin Islands.

1960—Cl. (1). Pub. L. 86-624 struck out reference to Hawaii.

1959—Cl. (1). Pub. L. 86-70 struck out reference to Alaska.

1958—Cls. (2) to (18). Pub. L. 85-861 added cls. (2) and (18) and renumbered former cls. (2) to (16) as (3) to (17), respectively.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, see section 701(a) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 6323; title 10 section 101; title 28 section 2671.

### § 102. General policy

In accordance with the traditional military policy of the United States, it is essential that the strength and organization of the Army National Guard and the Air National Guard as an integral part of the first line defenses of the United States be maintained and assured at all times. Whenever Congress determines that more units and organizations are needed for the national security than are in the regular components of the ground and air forces, the Army National Guard of the United States and the Air National Guard of the United States, or such parts of them as are needed, together with such units of other reserve components as are necessary for a balanced force, shall be ordered to active Federal duty and retained as long as so needed.

(Aug. 10, 1956, ch. 1041, 70A Stat. 597.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
102 .....	50:921(b).	July 9, 1952, ch. 608, §201(b), 66 Stat. 482.

The words “The Congress further declares \* \* \* as expressed in the National Defense Act of 1916 as amended” and “It is the intent of Congress that” are omitted as surplusage. The words “United States” are substituted for the words “our” and “this Nation”. The words “more \* \* \* than are in” are substituted for the words “in excess of those”. The words “Federal duty” are substituted for the words “military service of the United States”. The words “as long as so needed” are substituted for the words “so long as such necessity exists”.

#### CROSS REFERENCES

Active duty of reserve components generally, see section 12301 of Title 10, Armed Forces.

Active Federal service, see section 12401 of Title 10.

Basic policy for order into Federal service, see section 10103 of Title 10.

Call into Federal service, see section 12406 of Title 10.

Insurrection, see section 331 et seq. of Title 10.

Reserve components, see section 10101 et seq. of Title 10.

### § 103. Branches and organizations

The Army National Guard of each State and Territory, Puerto Rico, and the District of Columbia includes such members of the staff corps corresponding to the staff corps of the Army as the Secretary of the Army may authorize.

(Aug. 10, 1956, ch. 1041, 70A Stat. 597; Pub. L. 100-456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
103 .....	32:9.	July 9, 1918, ch. 143 (proviso of 13th par. under "National Guard"), 40 Stat. 875.

The word "members" is substituted for the words "officers and enlisted men". The word "Regular" is omitted, since the organization is now prescribed for the Army, and the Regular Army is only a personnel category.

#### AMENDMENTS

1988—Pub. L. 100-456 struck out "the Canal Zone," after "Puerto Rico,".

#### CROSS REFERENCES

Appointment of National Guard officers as Reserve officers upon Federal recognition, see sections 12211 and 12212 of Title 10, Armed Forces.

Army Staff, see section 3031 et seq. of Title 10.

### § 104. Units: location; organization; command

(a) Each State or Territory and Puerto Rico may fix the location of the units and headquarters of its National Guard.

(b) Except as otherwise specifically provided in this title, the organization of the Army National Guard and the composition of its units shall be the same as those prescribed for the Army, subject, in time of peace, to such general exceptions as the Secretary of the Army may authorize; and the organization of the Air National Guard and the composition of its units shall be the same as those prescribed for the Air Force, subject, in time of peace, to such general exceptions as the Secretary of the Air Force may authorize.

(c) To secure a force the units of which when combined will form complete higher tactical units, the President may designate the units of the National Guard, by branch of the Army or organization of the Air Force, to be maintained in each State and Territory, Puerto Rico, and the District of Columbia. However, no change in the branch, organization, or allotment of a unit located entirely within a State may be made without the approval of its governor.

(d) To maintain appropriate organization and to assist in training and instruction, the President may assign the National Guard to divisions, wings, and other tactical units, and may detail commissioned officers of the National Guard or of the Regular Army or the Regular Air Force, as the case may be, to command those units. However, the commanding officer of a unit organized wholly within a State or Territory, Puerto Rico, or the District of Columbia may not be displaced under this subsection.

(e) To insure prompt mobilization of the National Guard in time of war or other emergency, the President may, in time of peace, detail a commissioned officer of the Regular Army to perform the duties of chief of staff for each fully organized division of the Army National Guard, and a commissioned officer of the Regular Air Force to perform the duties of the corresponding

position for each fully organized wing of the Air National Guard.

(f) Unless the President consents—

(1) an organization of the National Guard whose members have received compensation from the United States as members of the National Guard may not be disbanded; and

(2) the actual strength of such an organization in commissioned officers or enlisted members may not be reduced below the minimum strength prescribed by the President.

(Aug. 10, 1956, ch. 1041, 70A Stat. 598; Pub. L. 100-456, div. A, title XII, §1234(b)(1), (2), Sept. 29, 1988, 102 Stat. 2059.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
104(a) .....	32:6.	June 3, 1916, ch. 134, §§ 64, 65 (proviso), 68, 39 Stat. 198-200.
104(b) .....	32:5 (1st sentence).	
104(c) .....	32:5 (less 1st sentence).	
104(d) .....	32:8.	June 3, 1916, ch. 134, § 60;
104(e) .....	32:10 (proviso).	June 4, 1920, ch. 227 subch. I, § 36; restated June 15, 1933, ch. 87, § 6, 48 Stat. 156.
104(f) .....	32:16.	

In subsection (a), the words "within their respective borders" are omitted as surplusage.

In subsection (b), the word "Army" is substituted for the words "Regular Army", since the Army is the category for which the organization is prescribed, and the Regular Army is a personnel category for which no organization is prescribed. Similarly, the words "Air Force" are used instead of the words "Regular Air Force".

In subsection (c), the words "by branch of the Army or organization of the Air Force" are substituted for the words "as to branch or arm of service". The words "branch, organization, or allotment of a unit" are substituted for the words "allotment, branch, or arm of units or organizations".

In subsections (d) and (e) the word "commissioned" is inserted, since 32:8 and 10 historically applied only to commissioned officers (see opinion of the Judge Advocate General of the Army (JAGA 1953/4078, 6 May 1953)).

In subsection (d), the word "brigades" is omitted as surplusage.

In subsection (e), the word "tactical" is omitted as surplusage.

In subsection (f), the words "have received compensation from the United States as members of the National Guard" are substituted for the words "shall be entitled to and shall have received compensation under the provisions of this title". The words "actual strength \* \* \* in commissioned officers or enlisted members" are substituted for the words "commissioned or enlisted strength".

#### AMENDMENTS

1988—Subsec. (a). Pub. L. 100-456, §1234(b)(2), substituted "Each State or Territory and Puerto Rico" for "Each State and Territory, Puerto Rico, and the Canal Zone".

Subsecs. (c), (d). Pub. L. 100-456, §1234(b)(1), struck out "the Canal Zone," after "Puerto Rico,".

#### STUDY OF STATE AND FEDERAL MISSIONS OF NATIONAL GUARD

Pub. L. 103-160, div. A, title V, §522, Nov. 30, 1993, 107 Stat. 1655, directed Secretary of Defense to provide for a study of State and Federal missions of National Guard to be carried out by a federally funded research and development center, including consideration of both separate and integrated requirements (including requirements pertaining to personnel, weapons, equipment, and facilities) that derive from those missions, required an interim report not later than May 1, 1994,